

**United States Court of Appeals  
FOR THE EIGHTH CIRCUIT**

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No. 99-3261

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Joseph W. Preston,

Plaintiff - Appellant,

v.

State of Iowa,

Defendant - Appellee.

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\* Appeal from the United States  
\* District Court for the  
\* Northern District of Iowa.

\* **[UNPUBLISHED]**  
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Submitted: May 8, 2000

Filed: July 20, 2000

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Before BOWMAN, LOKEN, and BYE, Circuit Judges.

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PER CURIAM.

Iowa inmate Joseph W. Preston was convicted of sexual abuse of a minor after a bench trial and was sentenced to twenty-five years in prison. The Supreme Court of Iowa affirmed, and the denial of Preston's petition for state post-conviction relief was affirmed on appeal in December 1996. He filed this petition for a federal writ of habeas corpus in October 1998, well beyond the applicable one-year statute of limitations. See 28 U.S.C. § 2244(d)(1). The State moved to dismiss the petition as untimely. Preston argued that the limitations period should be extended in this case under the doctrine of equitable tolling, which applies when "extraordinary

circumstances beyond a prisoner's control make it impossible to file a petition on time." Paige v. United States, 171 F.3d 559, 561 (8th Cir. 1999).

The district court<sup>1</sup> held a telephonic hearing at which Preston explained that his petition was untimely because he was unaware of the applicable federal statute of limitations, and because his state post-conviction counsel had not sent him the "transcripts" from that proceeding. The district court then granted the motion to dismiss, concluding that Preston's unfamiliarity with federal law is not a ground for equitable tolling, and that his inability to timely obtain transcripts from a former attorney "did not come near" to constituting the required showing of extraordinary circumstances. Preston appeals. After careful review of the record, we affirm for the reasons stated in the district court's Order dated July 27, 1999. See 8th Cir. Rule 47B.

A true copy.

Attest:

CLERK, U. S. COURT OF APPEALS, EIGHTH CIRCUIT.

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<sup>1</sup>The HONORABLE DONALD E. O'BRIEN, United States District Judge for the Northern District of Iowa.